~~1918~~ 1894
Courts

File No. 50 of 94
+ 49 of 94

Regulation for the protection

of public officers Spare copies of drafts

Copies with file No. 50 of ~~94~~ & 49 & 94
~~Courts~~

G. R. S. IX-5]

Previous references. old D-W-O No 105 1894 19[illegible]. (Legislation), Courts

File No.

Serial Nos.

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for

SUBJECT.

Regulation for the protection of public officers; with Copies one Connected with file No Courts 507 94 & 699 94

W D 88—GPB—50,000—24-7-16

I. In Section 3 clause (1)
for the words "Records
Connected therewith" Substitute
the following
"Records Connected therewith,
(a) &c. &c. (as altered in Rep.)

II. In Section 27. for the words
"or Sureties if in Custody"
Substitute "or other person
"as aforesaid or Surety or
"Sureties, if in Custody"

Government of Mysore

Legislative Department

(Draft)

Regulation No. of 189

A Regulation to amend Regulation IV of 1888 (the Mysore Land Revenue Code).

Preamble. Whereas it is expedient to amend Regulation IV of 1888 (the Mysore Land Revenue Code), His Highness the Maharaja is pleased to enact as follows:—

Substitution for Chapter XIV of the Land Revenue Code. III. For Chapter XIV ~~of the said Code~~, the following ~~shall be~~ substituted namely:—

"Chapter XIV

"Revenue jurisdiction.

Interpretation Clause. "219. In this Chapter, unless there be

something repugnant in the subject or context — 2

"Land" includes the sites of villages, towns and cities; it also includes trees, growing crops and grass, fruit upon, and juice in, trees, rights of way, ferries and fisheries

"Land Revenue means all sums and payments in money or in kind received or claimable by, or on behalf of, Government, from any person on account of land held by, or vested in, him, and any cess or rate authorized by Government under the provisions of any law for the time being in force.

~~an Office~~ any person holding an office ~~succession to which~~ succession to which is recognized by the Govt & the hereditary and includes hereditary Officers & Servants in Village Municipal institutions.

220. Nothing in this Chapter shall

Saving of provisions of Pensions Act —

affect any of the provisions of Act XXIII of 1871 (The Pensions Act).

3

Bar of certain suits.

21. No Civil Court shall exercise jurisdiction as to any of the following matters, wherein the decision of the Government shall be final:—

(a) claims in respect of any property appertaining to the office of any hereditary officer or servant appointed or recognized as such by Government;

claims to perform the duties of any such officer or servant, or in respect of any injury caused by exclusion from such office or service; or

---

(whether consisting of lands, cash emoluments from the Public Treasury, payment in kind or money from private individuals, or of any other description of property whatsoever)

Government under the provi-
-sions of any law for the
time being in force; or 4

respecting the occupation
of waste or vacant land
belonging to Government;

(g) Claims regarding bound-
-aries fixed under Bombay
Act I of 1865 or under this
Regulation, or under any
other law for the time being
in force, or to set aside any
order passed by a competent
officer under any such law
with regard to boundary
marks; ~~and~~

(i) ~~(h)~~ Claims to hold land
wholly or partially exempt
from payment of land re-
-venue under any enact-
-ment or rules having the
force of law for the time
being in force expressly

creating an exemption not before existing in favor of an individual, or of any class of persons, or expressly confirming such an exemption on the ground of its being shown in a public record, or of its having existed for a specified term of years; or any written grant from the Government expressly creating or confirming such exemption ~~and~~ —

(h) ~~and~~ Claims relating to the supply and use of water for irrigation or other purposes, available at or from any Government work or other source, the right to which vests in the Government, or to the quantity, the mode of distribution

4 ~~A~~ Public Officer shall not be liable to be Sued ~~for~~ in any Civil Court for any ~~act~~ done or ordered to be done by him, in exercise of his Official duty as such Public Officer ~~in accordance with~~ under the provisions of any law for the time being in force or ~~under~~ any general or Special order of the Govt. ~~whether or not such act was in accordance with such law or order of Govt as aforesaid~~, provided that he, at the time in good faith believed that he was acting in accordance with such law or order of Govt as aforesaid.

S. 223. Bryson Law Rep Code & Stevens & Judd on & Moore p. 353.

When such act was not in accordance ~~with the law~~ such law or Order of Govt as ~~after~~ aforesaid,

S. 225 Law Rep Code 5

in any record of a Revenue Survey or Settlement, or in any village papers, or by any settlement of boundaries under Bombay Act I of 1865, or under this Regulation;

(c) Suits between superior holders and inferior holders not otherwise expressly provided for by this Regulation.

* * Here copy Sec: 223 from 2 of ..... Line —

Also 224 (Sec)

226. If, in the trial or investigation of any suit, claim or objection which, but for the provisions of this Chapter, might have been tried or investigated by Court of Appeal Court or in which a decision has been passed in against on such trial or investigation there arises any question on which the Government

Power of Government to refer questions for decision of Chief Court —

~~Draft~~ Regulation

~~Government of Mysore~~

~~Legislative Department~~

~~(Draft)~~

Regulation No. of 189

A Regulation to amend Regulation IV of 1888 (the Mysore Land Revenue Code)

Whereas it is expedient to amend Regulation IV of 1888 (the Mysore Land Revenue Code), His Highness the Maha Raja is pleased to enact as follows:—

Preamble.

I In Section 1, Short-title, for the words "The Mysore Land Revenue Code 1888" substitute "The Mysore Land Revenue Code."

II In Section 3 clause (1) for the words "records connected therewith" substitute the following, "records connected there-

with, or of the Custody of Land Revenue realized whether in a public Treasury or otherwise: and includes Officers in whom are vested the duty of controlling, distributing or regulating the " supply and use, for irrigation or other " purposes, of water " available at or from any Government work or other source the " right to which vests in Government.

III In Section 27 for the words "or Surety if in custody" substitute "or other person as " aforesaid or Surety " or Sureties, if in " custody

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III For Chapter XIV

Substitution for Chapter XIV of the Land Revenue Code.

Substitute the following, namely:—

"Chapter XIV

"Revenue Jurisdiction.

Interpretation clause.

"219. In this chapter, unless there be something repugnant in the subject or context—

"Land" includes the sites of villages, towns and cities; it also includes trees, growing crops and grass, fruit upon and juice in trees, rights of way ferries and fisheries.

"Land Revenue

means all sums and

Land Revenue. payments in
money or in kind re-
-ceived or claimable
by or on behalf of,
Government, from any
person on account of
land held by, or in
vested in, him, and
any cess or rate —
authorized by Govern-
ment under the pro-
visions of any law
for the time being in
force

"Hereditary officer
or servant" includes
any person holding an
office succession to
which is recognized
by the Government to
be hereditary and in-
-cludes hereditary offi-
-cers and servants in
Government Muzzon
institutions.

"220. Nothing in this Chapter shall affect any of the provisions of Act XXIII of 1871 (The Pensions Act).

Saving of provisions of Pensions Act.

"221. No Civil Court shall exercise jurisdiction as to any of the following matters wherein the decision of the Government shall be final:—

Bar of certain suits.

(a) Claims in respect of any property (whether consisting of lands, cash emoluments from the Public Treasury, payment in kind or money from private

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individuals, or of any other description of property whatsoever) appertaining to the Office of any hereditary Officer or servant appointed or recognized as such by Government;

Claims to perform the duties of any such Officer or servant, or in respect of any injury caused by exclusion from such Office or service

or

claims ~~such~~ to set aside or avoid any order relating to such office or service or such officer or servant, which may be passed by any officer duly authorized in that behalf; or

claims in respect of lands declared by Govern-ment, or any officer duly authorized in that behalf, to be held for any service whatsoever;

(b) Objections —

to the amount or inci-dence of any assessment of land revenue authorized by Government, or to the mode of assessment, or to the principle on which such assessment is fixed;

or

to the validity or effect of the notification of survey

or settlement, or of any notifica-
-tion determining the period
of settlement;

(c) claims connected with
or arising out of any proceed
-ings for the realisation of
land revenue, or the rendering
of assistance by Government,
or any officer duly authorized
in that behalf, to superior
holders for the recovery of
their dues from inferior
holders; or claims to set
aside on account of
irregularity, mistake or
any other ground except
fraud, sales for arrears of
land revenue.

(d) Claims —

(i) to be entered in the
Revenue Survey or settlement
records or village papers
as liable for the land re-
-venue, or as superior

holder, inferior holder, oc-
-cupant or tenant; or

(2) to have any entry made
in any record of a Revenue
Survey or settlement; or

(3) to have any such entry
either omitted or amended;

(e) Claims relating to the
distribution of land or
allotment of land revenue
on partition of any estate
~~under Bombay Act IV of 1866~~,
~~or~~ under this Regulation,
or under any other law for
the time being in force;

(f) Claims to hold land wholly
or partially free from pay-
-ment of land revenue; or

to receive payments charged
on or payable out of the
land revenue; or

to set aside any cess
or rate authorized by

Government under the provisions of any law for the time being in force; or

respecting the occupation of waste or vacant land belonging to Government;

(g) Claims regarding boundaries fixed under Bombay Act I of 1865 or under this Regulation, or under any other law for the time being in force, or to set aside any order passed by a competent officer under any such law with regard to boundary marks;

(h) Claims relating to the supply and use of water, for irrigation or other purposes, available at or from any Government work or other source, the right to which vests in the Government, or to the quantity, the mode of distribution or the regulation of

such supply or use; and

(i) Claims to hold land wholly or partially exempt from payment of land revenue under any enactment or rules having the force of law for the time being in force expressly creating an exemption not before existing in favor of an individual, or of any class of persons, or expressly confirming such an exemption on the ground of its being shewn in a public record, or of its having existed for a specified term of years; or any written grant from the Government expressly creating or confirming such exemption—

~~& the regulation of such supply~~ 12

~~& rate~~

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222 Nothing in the preceding section shall be held to prevent the Civil Courts from entertaining the following suits: —

Saving of certain suits —

(a) Suits —

to contest a demand for public money or papers, or other Government property, or for land Revenue or rent due to the holder of a Commission, or for land Revenue due to the Government, preferred in accordance with security bonds executed under Sections 27, 102 or 170;

or to recover any amount paid under protest under Sections 102 and 170 or realized by any process under Chapter XI,

when such suits are on the

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ground

(1) that the claim in respect of which the demand, payment under protest, or realization, had been made was in excess of what was authorized by Government in that behalf, or

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(2) that such claim had been duly satisfied previous to such demand, payment under protest or realization, or

(3) ~~or~~ that the Plaintiff or the person he represents was not liable to be proceeded against in respect of such claim;

(b) Suits between private parties for the purpose of establishing any private right although it may be affected by any entry.

in any record 21 a Revenue Survey or Settlement, or in any village papers, or by any settlement of boundaries under Bombay Act I of 1865, or under this Regulation;

(C) Suits between superior holders and inferior holders, not otherwise expressly provided for by this Regulation.

" 223. If any Revenue Officer absconds or does not attend when called on by his official superior, and if the Deputy Commissioner of the District proceeds against him or his Sureties for public money, papers or property, according to the provisions of this

Regulation, or of any
law for the time be-
ing in force, such De-
puty Commissioner
shall not be liable to
pay damages or costs
in any suit brought
against him by such
Officer or Sureties, in
although it appears
that a part only, or
no part whatever, of
the sum demanded
was due from the
Officer so absconding
or failing to attend,
or that he was not in
possession of the pa-
pers or property de-
manded of him -

"224 Nothing in
any law for the time

Punishment or prosecution of Revenue Officers, no bar to Civil remedies.

being in force which authorizes the punish-

ment

ment departmentally of any Revenue Officer for any offence or breach of duty or which sanctions his prosecution criminally for such offence or breach shall be held to bar any remedy which may be had in the Civil Court against such Officer.

"226. Power of Government to refer questions for decision of Chief Court.

If in the trial or investigation of any suit, claim or objection which, but for the provisions of this Chapter, might have been tried or investigated by a Civil Court or in any appeal against orders passed in such trial or investigation there arises any question on which the Government,

whether

whether upon its own motion
or upon the recommendation
of the Deputy Commissioner,
or upon the application of
the party interested, desires
to have the decision of
the Chief Court, the Govern-
-ment may cause a
statement of the question
to be prepared and may
refer such question for the
decision of the Chief Court.

The Chief Court shall fix
an early day for the hearing
of the question referred, and
cause notice of such day
to be placed in the
Court-house.

The parties to the case
may appear and be heard
in the Chief Court in person,
or by their Advocates or
Pleaders.

The Chief Court, when it
has heard and considered

the case, shall send a copy of its decision, with the reasons therefor, under the seal of the Court, to the Government by which the reference was made, and the case shall be disposed of conformably to such decision.

If the Chief Court considers that any such statement is imperfectly framed, the Chief Court may return it for amendment.

The costs (if any) consequent on any such reference shall be dealt with as the Chief Court in each case directs.

"227. If, in any suit instituted, or in any appeal presented, in a Civil Court, the Judge doubts whether he is precluded by this

Power of Civil Judge to refer questions of jurisdiction to Chief Court.

Chapter from 19. taking cog-
-nizance of the 2nd or
appeal, he may refer
the matter to the Chief
Court.

The Chief Court may
order the Judge making
the reference either to
proceed with the case
or to return the plaint.

The order of the Chief
Court on any such
reference shall be final.

"228. If the Chief Court
Composition of Bench. consists
of three or more Judges,
every reference under Section
226 or section 227 shall be
heard by a Bench consist-
-ing of such number of
Judges not less than three
as the Chief Judge from
time to time directs."

1st Proof

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(Draft Regulation.)

GOVERNMENT OF MYSORE.

LEGISLATIVE DEPARTMENT.

REGULATION No. OF 189

to amend Regulation IV of 1888 (the Mysore Land Revenue Code).

Preamble.

Whereas it is expedient to amend Regulation IV of 1888 (the Mysore Land Revenue Code), His Highness the Maharaja is pleased to enact as follows:—

I. In Section 1, ~~short title~~, for the words "The Mysore Land Revenue Code 1888" substitute "The Mysore Land Revenue Code."

II. In Section 3 clause (1) for the words "records connected therewith" substitute the following, "records connected therewith, ~~or of the custody of Land Revenue realized whether in a public Treasury or otherwise~~: and includes officers in whom are vested the duty of controlling, distributing or regulating the supply and use, for irrigation or other purposes, of water available at or from any Government work or other source the right to which vests in Government."

III. In Section 27 for the words "or surety if in custody" substitute "or other person as aforesaid or surety or sureties if in custody."

Substitution for Chapter XIV of the Land Revenue Code.

IV. For Chapter XIV substitute the following, namely:—

"CHAPTER XIV.

"REVENUE JURISDICTION.

Mysore Land Rev Code. 219

Interpretation clause.

219. In this chapter, unless there be something repugnant in the subject or context—

"Land."

"Land" includes the sites of villages, towns and cities; it also includes trees, growing crops and grass, fruit upon, and juice in, trees, rights of way, ferries and fisheries.

"Land Revenue."

"Land Revenue" means all sums and payments in money or in kind received or claimable by, or on behalf of, Government, from any person on account of land held by,

or vested in, him, and any cess or rate authorized by Government under the provisions of any law for the time being in force.

"Hereditary officer or servant" includes any person holding an office succession to which is recognized by the Government to be hereditary and includes hereditary officers and servants in Government Muzarayi institutions.

"Hereditary Officer."

"220. Nothing in this chapter shall affect any of the provisions of Act XXIII of 1871 (The Pensions Act).

Saving of provisions of Pensions Act.

"221. No Civil Court shall exercise jurisdiction as to any of the following matters, ~~wherein the decision of the Government shall be final~~:—

Bar of certain Suits.

(*a*) Claims in respect of any property (whether consisting of lands, cash emoluments from the Public Treasury, payment in kind or money from private individuals, or of any other description of property whatsoever) appertaining to the office of any hereditary officer or servant appointed or recognized as such by Government;

claims to perform the duties of any such officer or servant, or in respect of any injury caused by exclusion from such office or service; or

claims to set aside or avoid any order relating to such office or service or such officer or servant, which may be passed by any officer duly authorized in that behalf; or

claims in respect of lands declared by Government, or any officer duly authorized in that behalf, to be held for any service whatsoever;

(*b*) Objections—

to the amount or incidence of any assessment of land revenue authorized by Government, or to the mode of assessment, or to the principle on which such assessment is fixed; or

to the validity or effect of the notification of survey or settlement, or of any notification determining the period of settlement;

(*c*) Claims connected with or arising out of any proceedings for the realization of land revenue, or the rendering of assistance by Government, or any officer duly authorized in that behalf, to superior holders for the recovery of their dues from inferior holders; or claims to set aside on account of irregularity, mistake or any other ground except fraud, sales for arrears of land revenue;

(*d*) Claims—

(1) to be entered in the Revenue survey or settlement records or village papers

— New —
Sir Mark Cubbon's Circular order No 30 dated 26 Oct 57.

Mysore Land Rev Code S. 220

Mysore Land Rev Code. S. 221, obtained except clauses (b) & (i)

Hereditary Offices

Hereditary Offices

Assessment and Settlement

Assessment & Settlement

Realization of Land Revenue

Realization of Land Revenue

Entries in Survey & Settlement records.

as liable for the land revenue, or as superior holder, inferior holder, occupant or tenant; or

(2) to have any entry made in any record of a Revenue survey or settlement; or

(3) to have any such entry either omitted or amended

(*e*) Claims relating to the distribution of land or allotment of land revenue on partition of any estate under this Regulation, or under any other law for the time being in force;

(*f*) Claims to hold land wholly or partially free from payment of land revenue or

to recieve payments charged on or payable out of the land revenues or

to set aside any cess or rate authorized by Government under the provisions of any law for the time being in force; or

respecting the occupation of waste or vacant land belonging to Government

(*g*) Claims regarding boundaries fixed under Bombay Act 1 of 1865 or under this Regulation, or under any other law for the time being in force, or to set aside any order passed by a competent officer under any such law with regard to boundary marks; and

(*h*) Claims relating to the supply and use of water, for irrigation or other purposes, available at or from any Government work or other source, the right to which vests in the Government, or to the quantity, the mode of distribution or the regulation of such supply or use; and

(*i*) Claims to hold land wholly or partially exempt from payment of land revenue under any enactment or rules having the force of law for the time being in force expressly creating an exemption not before existing in favor of an individual, or of any class of persons, or expressly confirming such an exemption on the ground of its being shewn in a public record or of its having existed for a specified term of years, or any written grant from the Government expressly creating or confirming such exemption.

"222. Nothing in ~~the preceding~~ section shall be held to prevent the Civil Courts from entertaining the following suits:—

Saving of certain suits.

(*a*) Suits between private parties for the purpose of establishing any private right although it may be affected by any entry in any record of a Revenue survey or settlement, or in any village papers, ~~or by any settlement of boundaries under Bombay Act I of 1865 or under this Regulation; and~~

~~(b) This Regulation shall~~

(*b*) Suits between superior holders and inferior holders, not otherwise expressly provided for by this Regulation.

Saving of certain other suits.

"22A. Nothing in ~~this chapter~~ shall be held to prevent the Civil Courts from entertaining suits brought to contest a demand for public money or papers, or other Government property, or for land Revenue or rent due to the holder of a commission, or for land Revenue due to the Government, preferred in accordance with security bonds executed under sections 27, 102 or 170; or

to recover any amount, paid under protest under sections 102 and 170 or realized by any process under chapter XI;

when such suits are on the ground—

(1) that the claim in respect of which the demand, payment under protest, or realization, had been made was in excess of what was authorized by Government in that behalf, or

(2) that such claim had been duly satisfied previous to such demand, payment under protest, or realization, or

(3) that the plaintiff or the person he represents was not liable to be proceeded against in respect of such claim.

Provided that such suits are brought against the Deputy Commissioner of the District in which the demand, payment under protest, or realization had been made.

Bar of certain suits against Deputy Commissioners

"22B. If any Revenue officer absconds or does not attend when called on by his official superior, and if the Deputy Commissioner of the District proceeds against him or his sureties for public money, papers or property, according to the provisions of this Regulation, or of any law for the time being in force, such Deputy Commissioner shall not be liable to pay damages or costs in any suit brought against him by such officer or sureties, although it appears that a part only, or no part whatever, of the sum demanded was due from the officer so absconding or failing to attend, or that he was not in possession of the papers or property demanded of him.

Punishment or prosecution of Revenue officers, no bar to Civil remedies.

"22C. Nothing in any law for the time being in force which authorizes the punishment departmentally of any Revenue officer for any offence or breach of duty or which sanctions his prosecution criminally for such offence or breach, shall be held to bar any remedy which may be had in the Civil Court against such Officer.

Section 221.

Mysore Land R. Code S. 222 clause (b) To establish ... old land — Copy ...

In every ... suits ... might under the last preceding ... action, the Deputy Court ... the District in which ... cause of action ... shall be made ... suits in his official ... capacity.

Mysore Land R Code. S. 223 para 2

Mysore Land R. Code. S. 224

Mysore L R Code S. 226.

"226. If, in the trial or investigation of any suit, claim or objection which, but for the provisions of this chapter, might have been tried or investigated by a Civil Court or in any appeal against orders passed in such trial or investigation, there arises any question on which the Government, whether upon its own motion or upon the recommendation of the Deputy Commissioner, or upon the application of the party interested, desires to have the decision of the Chief Court, the Government may cause a statement of the question to be prepared and may refer such question for the decision of the Chief Court.

Power of Government to refer questions for decision of Chief Court.

The Chief Court shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the Court house.

The parties to the case may appear and be heard in the Chief Court in person, or by their Advocates or Pleaders.

The Chief Court, when it has heard and considered the case, shall send a copy of its decision, with the reasons therefor, under the seal of the Court, to the Government by which the reference was made, and the case shall be disposed of conformably to such decision.

If the Chief Court considers that any such statement is imperfectly framed, the Chief Court may return it for amendment.

The costs (if any) consequent on any such reference shall be dealt with as the Chief Court in each case directs.

Mysore L. R Code S. 227

"227. If, in any suit instituted, or in any appeal presented, in a Civil Court, the Judge doubts whether he is precluded by this Chapter from taking cognizance of the suit or appeal, he may refer the matter to the Chief Court.

Power of Civil Judge to refer questions of jurisdiction to Chief Court.

The Chief Court may order the Judge making the reference either to proceed with the case or to return the plaint.

The order of the Chief Court on any such reference shall be final.

Mysore L. R Code S. 228.

"228. If the Chief Court consists of of three or more Judges, every reference under section 226 or section 227 shall be heard by a Bench consisting of such number of Judges not less than three as the Chief Judge from time to time directs."

Composition of Bench.

V. This Regulation shall come into force on the passing Thereof.

(Draft Regulation)

GOVERNMENT OF MYSORE.

LEGISLATIVE DEPARTMENT.

REGULATION No. OF 189

A Regulation for the protection of Judicial, Police, Revenue and other Public Officers.

Preamble.

For the greater protection of Judicial, Police, Revenue and other Public Officers, His Highness the Maharaja has been pleased to enact as follows:—

Definition.

In this Regulation, "Public Officer" means a "Public Officer" as defined in the Code of Civil Procedure and includes a "Revenue Officer" as defined in the Mysore Land Revenue Cod

Judicial Officers Protection Act XVIII. of 1850 Section I.

Non-liability to suit of Officers acting judicially, for official acts done in good faith, and of Officers executing warrants and orders.

2. No Judge, Magistrate, Revenue Officer, or other person acting judicially, shall be liable to be sued in any Civil Court, for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction: provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of: and no Officer of any court or other person, bound to execute lawful warrants or orders of any such Judge, Magistrate, Revenue Officer, or other person acting judicially, shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.

Section 43 of Act V. of 1861.

Protection of Police Officers.

3. When any action or prosecution shall be brought or any proceedings held against any police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decision in his favor, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine.

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section.

Proviso.

Section 223 Mysore Land Revenue Code and Spooner *v.* Juddow, 4 Moore page 353.

4. A Public Officer shall not be liable to be sued in any Civil Court for any act done or ordered to be done by him, in exercise of his official duty as such Public Officer under the provisions of any law for the time being in force or under any general or special order of the Government, whether or not such act was in accordance with such law or order of Government as aforesaid, provided that when such act was not in accordance with such law or order of Government as aforesaid, he, at the time in good faith believed that he was acting in accordance with such law or order of Government as aforesaid.

Bar of suits against Public Officers.

Section 225 Land Revenue Code.

5. No Civil Court shall entertain any suit against any Public Officer on account of any official act or omission, unless the plaintiff first proves that previously to bringing his suit, he has presented all such appeals to the authorities superior to such Officer, as, within the period of limitation allowed for bringing such suit, it was possible to present.

Suits not to be entertained. unless plaintiff has exhausted right of appeal.

Section 229 of the Mysore Land Revenue Code and Bombay Moffusil Courts Act XIV of 1869 Section 32.

6. No Munsiff, Subordinate Judge or Court of Small Causes shall receive or register a suit against a Public Officer in respect of an act purporting to have been done by him in his official capacity; but in every such case, such Munsiff, Judge or Court shall refer the plaintiff to the District Judge in whose Court alone such suit shall be instituted.

Reference of Government Suits to District Judge.

Section 230 of the Mysore Land Revenue Code.

7. In any suit which may be brought against any public officer in respect of an official act, and of which the defence may be undertaken by the Government, it shall be lawful for the Government to require that the trial of any such suit shall have precedence over the trial of any other suit or other civil proceeding then pending in such Court, and the Court shall give effect to every such requirement.

Privileges of Government in Suits defended by it.

The privilege conferred on the Government by this section shall *mutatis mutandis* apply to any appeal or second appeal against any decree in any such suit as is described in this section.

In Mysore the Executive orders of the Government of India during the British Administration of the State have the force of law. Indeed similar Executive orders of the Officers appointed to administer the State have similar force as law when issued, before the Government of India directed that Executive orders having the force of law should in future issue with their sanction and not without such sanction by the Chief Commissioner (formerly

e.g. Sir Mark Cubbon's Stamp Ordinances and procedure of the Civil Courts of Amildars Mr Bowring's Rules regarding Revenue Suits.

styled Commissioner)
~~Chief Commissioner~~ of
Mysore. This direction
was I believe due to a
desire to make the
powers of the Chief
Commissioner of My-
sore correspond with
those of other Chief
Commissioners such a
those of Oudh, Central
Provinces, British
Burma &c. But
nevertheless the source
of law in Mysore
continued to be the
sanction of the ruling
authority as before
and not as in the
British Provinces where
any specially appointed

Legislature. Under
such circumstances
it is often a most
difficult question to
decide what Executive
orders of the late ~~Chief~~
Commissioner or Chief
Commissioner have the
force of law after the
Government of India
prescribed as above
their express previous
sanction for all laws
for the question whether
the fact of such non
-sanction can have the
effect of making
invalid any parti
-cular law in regard
to its binding character
upon the persons for

whom it is prescribed
is so intricate that
it can only be satis-
-factorily solved in
each case as it arises-

P. Iyer

Mem.

In Mysore the Legislative and Executive functions are vested in the same authority, namely the Maha Raja. No suits in the Civil Courts of the State lie in respect of any acts done by the Maha Raja or by those deriving their authority from Him to administer the Executive Government of the State such suits did not lie against the British Government or the Chief Commissioner who

administered the State in the name of the Maha Raja (See Instructions. H. Chief Commissioner), nor can such suits now lie against His Highness' Government. The remedy in all such cases is by petition to the Sovereign himself.

Under such circumstances the Civil Procedure Code of Mysore always omitted provision for suits against the Government. The omission existed both in the Code of 1877 introduced by Government of India Notification dated 27th

Rec'd

May 1877 and it now
exists under the Code
of 1882 introduced by
Regulation II of 1884
Sections 33, 34,
35 36 and 37 of this
Regulation, provides

The remaining
provisions of Chapter
XXVII of the British
Civil Proc
Code of 1882
are in force in Mysore
These relate to suits
by Government (Sections
416, 417 and 418)
and to suits against
public Officers as de-
fined in Section 2.
Of suits of the latter
kind, a distinction is
made between
(a) suits against

33 S 416)
34 S 418)
Omit Ss 419, 420 & 421

for the alterations & omissions of Ss 416, 418, 424 & 429 & the omissions of Ss 419, 420 & 421, of the British Civil Procedure of 1882, the object of such alterations & omissions being to exclude suits, of the kind in the Civil Courts of the State, as the Govt of Mysore

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public Officers which may proceed as bet- -ween private parties except as regards arrest and attachment in otherwise than in execution. (Section 425 & 427)

(b) Suits against public Officers of which the defence is undertaken by the Government and which may be defended by the Government Pleader (Section 426)

(c) suits against a public Officer in "respect of an act "purporting to be done "by him in his official "capacity" Section 424.

and regards service of Summons (S 422) & adjournment (S 423) and

In such suits the public Officer may be exempted from personal appearance Section 428 and any decree passed against the public Officer in shall not be executed within 3 months from the date of a report by the Court to the Government. — S. 429.

Suits against a public Officer which Government undertakes to defend call for special remarks in this place

As regards suits against a public Officer in respect of an official act

Copies from Sheet A

what would exempt
him from liability is
has not been expressly
laid down in any
law in force in Illy.
-sore. In the absence
of such an express
law, the principle
which can equitably
apply to such cases
is that an officer in
acting within the
exercise of his official
duty, shall not be
liable to be sued for
any consequences of
his act, that should the
act be outside the
range of his duty he
shall be liable, provided
he acted maliciously
or without due care

and

In accordance with the Public Laws laid down in consistent ordinance authority for

-n. shall otherwise then in accordance with Public Laws

and precaution

I believe the Courts have uniformly acted in accordance with principles such as the above but it is desirable to put them into an express law if we can find that a similar law exists elsewhere —

L.

5.

A

The facts stated in the foregoing paras were not kept in view when enacting Chap XIV of the Mysore Land Rev Code of 1888, and consequently in some of its Sections There is mention of "Suits against the Govt" which as a matter of fact do not lie. It is desirable to Correct this defect.

~~Also~~

Again the Chief Courts are reported to have held (Mysore Law Reports XV p. 243) that S. 229 of the Mysore L R Code applies only to Revenue officers, whereas the intention was that it shd apply to "any officer of Govt in his official capacity"

~~The Section~~

Chap XIV of the Mysore L R Code is an adaptation of the Bombay Rev. jurisdiction Act of 1876, which by the 15th Section amended ~~Bombay~~ S. 32 of the Bombay Civil Courts act XIV of 1869 almost in the terms of the Mysore Section 229.

Lastly ~~it~~ it is proposed that the protection, similar to what is afforded ~~by Section 229 of~~ to Revenue officers by S. 223 para 1 of the Mysore Law Rev Code, is required also in the ~~Case~~ Case of other public officers including Judges, Magistrates & Police officers.

Under such circ^{ces} it ~~was~~ will be most convenient to repeal ~~Copy~~ Chap XIV of the Mysore L R Code as it now stands and to re-enact it with the necessary amendments to exclude from the amended Chap all provisions ~~of a general~~ applicable to official acts of all Public Officers, and to Enact a Separate law for the protection of Judl. Pblic Rev & other Public Officers ——

Hence the accompanying two Draft Regulations, the Objects & reasons of which may be briefly explained as follows: ——

Mysore Land Rev. Code Amendment Regn —

1). Sections I & III merely Verbal

2) Section II is necessary as there is no more important work Connected with Land Revenue than the ~~Supply~~ Control & regulation of irrigation Supply & the use of Govt water generally ——

3) Section III ~~Revises~~ re-enacts ~~the~~ Chap XIV by the same ~~&~~ No. of Sections as ~~the Chap~~ it now Contains — ~~of these~~ The

amendments are explained below:—

(a) ~~Sec.~~ Sec. 219 (Old S. 219) — The defn of "Hereditary Officer & Sch." is intended to keep out of Civil Courts Suits regarding hereditary Mirasdars & other similar Officers, in accordance with the Rule laid by Sri Ramaka Ambar — which is still in full force & effect.

Cir dy No 30 Dr

(b) ~~This~~ Sec. 221 (Old S. 221) — ~~This follows~~ the Suits agst Govt are omitted — also ~~the~~ clauses (h) & (i) of the Section as it now stands are also omitted because the enactments contemplated in these clauses do not exist — Mysore and Coorg Govts by Govt are provided by the Land Revenue Rules of which still have the force of law.

Notification No 43 dy 18/5/22

The clauses in question are intended to modify the preceding clause (f) that they have no application to Mysore and their retention can only tend to mislead —

7

(c) clause 4 of the ~~from~~ Draft Section is new & provides for the very important matter of ~~Irrig~~ non interference by Courts of law with matters of irrigation which the Govt. is everywhere the absolute final authority

(d) S. 222 of the Draft is new and expressly reserves to the Govt. the final decision of matters which the preceding S. excludes from the jurisdiction of the Civil Courts

(e) S. 222 of the Draft re-enacts in a more convenient form ~~the~~ clauses 14 & (d) & last para of the present S. 222, ~~clause (4) (d) being Embodied in the other Regs for protection of public officers~~

~~(f)~~ while clause (a) of the latter is in a more ample & specific form is S. 224 of the Draft

(f) S. 225 of the Draft is new, and provides that suits under the preceding section shall be brought agt the Govt Courts, who for such purposes will represent the Govt

8

607

(9) The remainder of the Draft Chapter calls for no remarks

Reg^n for the protection of Jud^l Police Revenue & other public officers

The marginal references to the Draft sufficiently explain the various provisions of the Draft.

~~Section 4 is wider in scope than what exists elsewhere as written Express law.~~

~~Section 4 lays down as Express law~~

Section 4 as regards ~~bona fide~~ the defence of ~~bona fide~~ good faith, ~~as it lays down~~ lays down as Express law what exists elsewhere as unwritten law as regards all public officers and as written law in Act X VIII of 1850 as regards Judl. officers. It is only necessary to add, as regards the ~~protection~~ extending protection to Official duty ~~carried~~ done ~~carrying~~ under Govt. orders, that

W6

in
if the performance of such duty
any injury to private parties
results, the remedy by suit
against the ~~officer doing~~ performing
officer is unmeaning, and
as no suit lies against the Govt
the proper remedy should be
by appeal to the Govt on duty

~~Draft~~

Government of Mysore.

Legislative Department.

~~(Draft)~~

Regulation No of 189

A Regulation for the protection of Judicial, Police, Revenue and other Public officers.

For the greater protection of Judicial, Police, Revenue and other Public officers, His Highness the Maharaja has been pleased to enact as follows: —

Preamble.

1. In this Regulation,

Definition. "Public officer means ~~a person falling~~ under any of the following descriptions (namely): —

every Judge;

every officer of a Court of Justice whose duty it is, as such officer, to investi-

~~S. 2 — Cantt Pen Code.~~ Insertion in Sessions

("a Public Officer" as defined in the Civil Procedure Code and includes a "Revenue Officer" as defined in the Mysore Land Revenue Code")

-gate or report on any matter
of law or fact, or to make,
authenticate or keep any
document, or to take charge
or dispose of any property,
or to execute any judicial
process, or to administer
any oath, or to interpret,
or to preserve order in the
Court, and every person
specially authorized by
a Court of Justice to per-
-form any of such duties;

every person who holds
any office by virtue of which
he is empowered to place
or keep any person in con-
-finement;

every officer of Government
whose duty it is, as such
officer, to prevent offences,
to give information of
offences, to bring offenders
to justice, or to protect the

public health, safety or convenience;

every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every

S. 223, Myanmar Land Revenue Code

4. (1) No public officer shall be liable to be sued for act done bona fide in the exercise of his official duty as such public officer, or in pursuance of the provisions of any law for the time being in force or in exercise of any rights or powers vested in Government which he had been authorized to exercise, by or of any general or special order of Government prescribing such official duty for the time being in force.

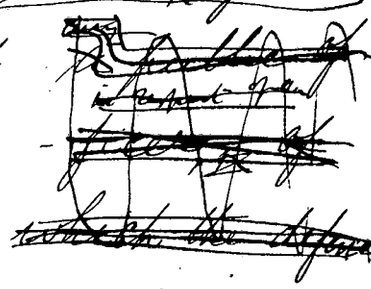
A certificate under the signature of a Secretary to the Government shall be conclusive proof of the authorization referred to in this section.

(2) When the act

S. 2297 the Bombay Land Rev Code & Bombay Mamlatdars Courts Act XIV of 1869 - S. 32

6. No Munsiff, Subordinate Judge or Court of Small Causes Reference of Government suits to District Judge - shall receive or register a suit against a public officer in respect of an act purporting to have been done by him in his official capacity; but in every such case, such Munsiff, Judge or Court shall refer the plaintiff to the District Judge in whose Court alone such suit shall be instituted.

7. In any suit (which may be brought) against Privileges of Government in suits defended by it.



~~In any suit against~~ any public officer in respect of an official act and ~~the defence of which may be~~ the defence may be undertaken by the Government, it shall be lawful for the Government ~~by a certificate signed by a Secretary thereto~~ to

S. 230 Bombay Land Rev Code.

(Draft Regulation) 1/54

Government of Mysore

Legislative Department.

Regulation No of 189 -

A Regulation for the protection of Judicial, Police, Revenue and other Public Officers -

Preamble - For the greater protection of Judicial, Police, Revenue and other Public Officers, His Highness the Maha Raja has been pleased to enact as follows: -

Definition - 1. In this Regulation "Public Officer" means a "Public Officer" as defined in the Code of Civil Procedure" and includes a "Revenue Officer" as defined in the "Mysore Land Revenue Code" -

Bt.

Source

Judicial Officers Protection Act XVIII of 1850 S. 1

officer in the service or pay of Government, or remuner-rated by fees or commission for the performance of any public duty;

and shall include a Revenue officer as defined in the Mysore Land Revenue Code.

Revenue officer

2. No Judge, Magistrate, ~~Deputy Commissioner~~ or other person acting judicially, shall be liable to be sued in any Civil Court, for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction: provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act com-

Non-liability to suit of officers acting judicially for official acts done in good faith, and of officers executing warrants and orders.

-plained of and no Officer of any Court or other person bound to execute the lawful warrants or orders of any such Judge, Magistrate Revenue Officer ~~Deputy Commissioner~~ or other person acting judi-cially, shall be liable to be sued in any Civil Court, for the execution of any warrant or order which he would be bound to execute, if within the jurisdiction of the person issuing the same.

Sec. 3 of Act V of 1861

Protection of Police-officers.

3. When any action or prose-cution shall be brought or any proceedings held against any police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under

the authority of a warrant
issued by a Magistrate.

Such plea shall be proved
by the production of the
warrant directing the act,
and purporting to be
signed by such Magistrate,
and the defendant shall
thereupon be entitled to a
decision
~~decree~~ in his favor, notwith-
-standing any defect of
jurisdiction in such Ma-
-gistrate. No proof of the
signature of such Magistrate
shall be necessary, unless the
Court shall see reason to
doubt its being genuine.

Provided always that
Proviso. any remedy
which the party may have
against the authority
issuing such warrant
shall not be affected
by anything contained
in this section.

Section 223
Supreme Land Revenue
Code and Spooner
& Judson 4
Moore page 353.

4. Bar of Suits agst Public Officers.

A Public Officer shall not be liable to be sued in any Civil Court for any act done or ordered to be done by him, in exercise of his Official duty as such Public Officer under the provisions of any law for the time being in force or under any general or special order of the Government whether or not such act was in accordance with such law or order of Government as aforesaid, provided that when such act was not in accordance with such law or order of Government as aforesaid, he, at the time in good faith

believed that he was acting in accordance with such law or order of Government as aforesaid —

Section 225 Land Revenue Code —

5. No Civil Court shall entertain any suit against any public Officer on account of any official act or omission, unless the plaintiff first proves that previously to bringing his suit he has presented all such appeals to the authorities superior to such Officer, as, within the period of limitation allowed for bringing such suit it was possible to present

Suits not to be entertained unless plaintiff has exhausted right of appeal.

6. No Munsiff Subordinate Judge or

Section 229 of the Mysore Land Revenue Code and Bombay Moffusil Courts Act XIV of 1869 - Section

or Court of Small Causes

Reference of Government suits to District Judge.

shall receive or register a suit against a public Officer in respect of an act purporting to have been done by him in his Official capacity, but in every such case such Munsiff, Judge or Court shall refer the plaintiff to the District Judge in whose Court alone such suit shall be instituted.

Section 230 of the Nilgiris Land Revenue Code.

Privileges of Government in suits defended by it.

7. In any suit which may be brought against any public Officer in respect of an Official act and of which the defence may be undertaken by the Government it shall be lawful for the Government

to

require that the trial of any such suit shall have precedence over the trial of any other suit or other civil proceeding then pending in such Court, and the Court shall give effect to every such requirement

The privilege conferred on the Government by this section shall mutatis mutandis apply to any appeal or second appeal against any decree in any such suit as is described in this section

Revenue jurisdiction

Chapter XIV. Land Revenue Code. 1888.

The facts stated in the foregoing paras were not kept ~~lost sight of~~ in view in Enacting the ~~Land Rev. Code of 1888~~ Chap XIV of the Mysore Land Rev Code of 1888. This Chapter ~~was~~ is a modification of ~~borrowed from~~ the Bombay Revenue Jurisdiction Act X of 1876, ~~with a few omissions a~~ ~~few~~ ~~tions~~. It seems that the Chief Court has decided (Mysore Law Reports XV. 243) that section 229 of the Mysore Land Revenue Code applies only to Revenue Officers. It was however intended to apply to all Government officers and was a new section which did not ~~separately~~ exist

~~but in~~ Some of the Sections reference to Civil Courts ~~act~~ The Govt is inadvertently retained

on the Bombay Act X of 1876 but was put into the Mysore Code with the object that suits against all public officers should be tried by the District Court only.

taken from Bombay mufassal Courts Act XIV of 1869 Sec 32. and

The best plan will be to enact Chapter XIV of the Land Revenue Code as a separate Regulation, and to take that opportunity to introduce into it all such improvements as are found necessary. and to have a separate law for the protection of public Servants.

by